

UNAPPROVED DRAFT

BOARD OF DENTISTRY

**MINUTES
FORMAL HEARING**

TIME AND PLACE: A meeting of the Virginia Board of Dentistry convened on June 5, 2008, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Richmond, VA 23233.

FIRST FORMAL HEARING: 9:06 a.m.

PRESIDING: Paul N. Zimmet, D.D.S.

MEMBERS PRESENT: Meera A. Gokli, D.D.S.
Myra Howard, D.D.S.
Jeffrey Levin, D.D.S.
Glenn A. Young, D.D.S.

MEMBERS ABSENT: Jacqueline G. Pace, R.D.H.
James D. Watkins, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Cheri Emma-Leigh, Administrative Assistant

COUNSEL PRESENT: Howard Casway, Senior Assistant Attorney General

OTHERS PRESENT: William Clay Garrett, Assistant Attorney General
Janelle Pannell, Intern, Office of Attorney General
Gail W. Ross, Adjudication Specialist
Lisa Mattson, Court Reporter, Cavalier Reporting, Inc.

QUORUM: With five members of the Board present, a panel was established.

Mohammad Ali Tabatabaeei-Fatemi, D.D.S.
Case No. 116281

Mohammad Ali Tabatabaeei-Fatemi, D.D.S. appeared without counsel to discuss his application for a license to practice dentistry in Virginia and to discuss allegations that he may have violated laws and regulations governing the practice of dentistry, in that

1. On his application received by the Board on June 4, 2007, he failed to disclose the following information:
 - a. He answered "No" to Question 3(k) which reads, "Have you ever had any malpractice claims brought against you?", despite the fact that a malpractice settlement was made on his behalf on January 17, 2002 in the amount of \$15,000, as a result of his alleged failure to provide a patient with a properly fitting bridge.
 - b. Although he answered "Yes" to Question 3(h) which reads, "Have you ever had any of the following disciplinary actions taken against your license to practice dentistry, your DEA permit, Medicare, Medicaid, or any such actions pending: suspension/revocations, or probations, or reprimand/cease and desist, or monitoring of practice, or limitation placed on scheduled drugs?", he failed to provide details, jurisdiction and dates on a separate page, as required.
 - c. Although he answered "Yes" to Question 3(f) which reads, "have you ever been convicted of a violation or plead Nolo Contendere, to any federal, state or local statute, regulations or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor?", he failed to provide details, jurisdiction and dates on a separate page, and a copy of the disposition/record certified by the Clerk of the Court, as required.
2. By Consent Order entered on December 15, 2004, his license to practice dentistry in

the State of Maryland was suspended. This action was based on Dr. Tabatabaei-Fatemi's billing practices, whereby he routinely billed Medicaid for services that were not performed, x-rays that were not taken, and billed for complex dental procedures when simple procedures were performed, which resulted in his exclusion from Medicaid and all other federal health care programs.

The Board admitted into evidence Commonwealth's exhibits 1 and 2.

The Board admitted into evidence Respondent's exhibits A through E.

Testifying on behalf of the Respondent was Sean Sayyar, D.D.S.

Dr. Tabatabaei-Fatemi testified on his own behalf

Closed Meeting:

Dr. Gokli moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Mohammad Ali Tabatabaei-Fatemi, D.D.S. Additionally, Dr. Gokli moved that Board Staff, Sandra Reen, and Board Counsel, Howard Casway, and Janelle Pannell, an Intern from the Office of Attorney General, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

Dr. Gokli moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. The motion was seconded and passed.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Mr. Casway read the Findings of Facts and Conclusions of Law and Sanctions imposed as adopted by the Board as follows:

1. Dr. Tabatabaeei-Fatemi, D.D.S., petitioned the Board of Dentistry for issuance of a dental license in the Commonwealth of Virginia on June 4, 2007.
2. Dr. Tabatabaeei-Fatemi violated § 54.1-2706(1) of the Code, in that his licensure application received by the Board on June 4, 2007, he answered "No" to Question 3(k) which reads, "Have you ever had any malpractice claims brought against you?", despite the fact that a malpractice settlement was made on his behalf on January 17, 2002, in the amount of \$15,000, as a result of his alleged failure to provide a patient with a properly fitting bridge and despite the clear and ambiguous wording of the question. Dr. Tabatabaeei-Fatemi testified that it was his belief the complaint was a settlement with the insurance company and not a malpractice claim.
3. Dr. Tabatabaeei-Fatemi violated § 54.1-2706(14) of the Code, in that in a Final Consent Order ("Consent Order") entered on December 15, 2004, Dr. Tabatabaeei-Fatemi's license to practice dentistry in the State of Maryland was suspended for a period of one year with all but four months stayed and was thereafter reinstated on probation for a period of two years with terms. The Maryland Board's action was based on Dr. Tabatabaeei-Fatemi's billing practices, whereby he routinely billed Medicaid for services that were not performed, x-rays that were not taken, and billed for complex dental procedures when simple procedures were performed, which resulted in his exclusion from Medicaid and

all other federal health care programs. On April 23, 2007, his Maryland dental license was reinstated without restrictions. Effective November 18, 2004, Dr. Tabatabaeei-Fatemi was excluded from Medicare, Medicaid and all other federal health care programs for a period of five years.

4. Dr. Tabatabaeei-Fatemi does not meet the requirements for licensure as set forth in § 54.1-2709.C(iii) of the Code and 18 VAC 60-20-71(6) of the Board's regulations.

Mr. Casway reported that it is the Board's decision to deny Dr. Tabatabaeei-Fatemi's application to practice dentistry in the Commonwealth of Virginia.

Dr. Gokli moved to adopt the Findings of Fact, Conclusions of Law and the denial of Dr. Tabatabaeei-Fatemi's application as read by Mr. Casway and issuing an Order stating such. The motion was seconded and passed.

**SECOND FORMAL
HEARING:**

11:12 a.m.

PRESIDING:

Paul N. Zimmet, D.D.S.

MEMBERS PRESENT:

Meera A. Gokli, D.D.S.
Myra Howard, D.D.S.
Jeffrey Levin, D.D.S.
Glenn A. Young, D.D.S.

MEMBERS ABSENT:

Jacqueline G. Pace, R.D.H.
James D. Watkins, D.D.S.

STAFF PRESENT:

Sandra K. Reen, Executive Director
Cheri Emma-Leigh, Administrative Assistant

COUNSEL PRESENT:

Howard Casway, Senior Assistant Attorney General

OTHERS PRESENT:

James Schliessmann, Assistant Attorney General
Janelle Pannell, Intern, Office of Attorney General

Julia Bennett, Adjudication Specialist
Lisa Mattson, Court Reporter, Cavalier Reporting,
Inc.
David Lockhart, Security Officer, American Security
Group
Brad Hughes, Security Officer, American Security
Group

QUORUM:

With five members of the Board present, a panel
was established.

**Gregory P. Lynn,
D.D.S.
Case No. 114178**

Gregory P. Lynne, D.D.S. appeared with counsel,
Mark Baron, Esq., to discuss allegations that he
may have violated laws and regulations governing
the practice of dentistry, in that

1. Between, on, or about April 5-6, 2006, Dr. Lynne's supervising dentist observed him performing an extraction on Patient Z's lower left first molar by first cleanly breaking off the crown, which was intact with minimal decay, and then laying a periosteal flap down to the apex of the roots, followed by removal of the alveolar bone with a bone bur until buccal bone was removed down to the root tips. This method of extraction was consistent with extractions witnessed by other staff members, who observed Dr. Lynne to routinely extract teeth by fracturing off the crown with forceps and then digging out the remaining tooth. Said method of extraction produces greater than necessary tissue disruption, causing or increasing the likelihood of subsequent infection. Even though Dr. Lynne's supervisor advised him to discontinue breaking off crowns during extraction procedures, he continued to do so. Subsequently, on or about May 11, 2006, Dr. Lynne's supervisor suspended his oral surgery privileges until he completed an approved continuing education class in oral surgery; however, Dr. Lynne failed to take such class, and, on or about March 9, 2007, he was terminated from his position

due to this and other matters.

2. Staff members frequently observed or noted that Dr. Lynne failed to prescribe necessary antibiotics and appropriate pain medications to patients following dental procedures. For example:
 - a. On or about October 12, 2005, Dr. Lynne extracted tooth #32 of Patient A, but failed to write a prescription for antibiotics and prescribed only Ibuprofen 600 mg for pain. Subsequently, on or about October 26, 2005, Patient A presented to Dr. Lynne complaining of continued pain, and he removed spicules of bone at the prior extraction site. Again, Dr. Lynne failed to prescribe any antibiotic after this procedure and only prescribed Ibuprofen for pain. On October 29, 2005, Patient A was admitted to the hospital complaining of difficulty swallowing, fever, pain and swelling inside and in the floor of his mouth, and swelling in his neck glands. Patient A was diagnosed with dental infection and cervical cellulitis, administered antibiotics, and discharged on October 31, 2005. Patient A's symptoms continued and, on November 1, 2005, he was admitted to the hospital's intensive care unit with a diagnosis of Ludwig's angina/parapharyngeal space infection with abscess probable post-operative infection. On November 3, 2005, an incision and drainage of the abscess on patient A's neck was performed, and the patient was discharged on November 6, 2005.
 - b. On or about April 27, 2006, Dr. Lynne extracted teeth #14, 16, and 17-19 of Patient B, but failed to write a

prescription for antibiotics and prescribed only Ibuprofen 800 mg. for pain. On April 30, 2006, a physician at the facility prescribed amoxicillin to Patient B. On May 1, 2006, Patient B presented with complaints of swelling of the throat, difficulty swallowing and breathing, a low-grade fever, a lump in his throat and also under his left lateral jaw on the neck, and limited ability to open his mouth. Dr. Lynne's response was to prescribe Patient B Tylenol #3. Dr. Lynne did not refer Patient B to the emergency room for treatment until the next day, at which time he also prescribed clindamycin. The emergency room physician diagnosed patient B with peritonsillar cellulitis and uvulitis, noting the possibility that the dental extraction could have created the soft tissue infection and by proxy gotten the uvula involved. Patient B was treated with antibiotics, prescribed pain medications, and discharged. On May 10, 2006, Patient B was re-admitted to the emergency room with complaints of trismus, dysphagia, and odynophagia with otalgia. A CT scan revealed an acute left peritonsillar abscess, which was incised and drained.

3. Staff members frequently observed or noted that Dr. Lynne failed to administer adequate anesthesia to patients prior to and during dental procedures. For example, on or about February 1, 2007, Dr. Lynne was ready to commence incision and drainage of a fistula next to Patient C's tooth #13 without administering anesthesia, and did so only at the insistence of the nurse assisting him. Further, Dr. Lynne did not initially prescribe antibiotics for patient C after completion of the procedure until

questioned by the assisting nurse about the need to do so.

4. During the 2005-2006 time periods, multiple staff members have observed him falling asleep during the performance of dental procedures on patients.
5. On or about February 21, 2007, while preparing to seat the first patient of the day for treatment, he engaged in threatening and disruptive behavior when, at nose-to-nose closeness, he accused his dental assistant of making "back biting" statements and physically forced her to back up from the clinic area into the lab area by his menacing forward motion. This event, among other things, led to the termination of Dr. Lynne's job at the Department of Corrections, which was subsequently upheld at an employment grievance hearing held on or about September 6, 2007.

Mr. Schliessmann submitted Commonwealth exhibits 1 through 12 to the Board. Mr. Baron objected to the late submission of Commonwealth's exhibit #12 due to the lateness of receiving the exhibit and that the CD's sent to him and Dr. Lynn were defective. The objection was over-ruled by Dr. Zimmet. Upon further examination of the CD's sent to Dr. Lynn and Mr. Baron, it was determined that Commonwealth's exhibit #12 is not admissible due to the CD's not being readable. The Board admitted into evidence Commonwealth's exhibits 1 through 11.

The Board admitted into evidence Respondent's exhibits A through S.

Testifying on behalf of the Commonwealth were James Steere, D.D.S., John O. Marsh, M.D., Leith Ellis, Senior Investigator, George A. Smith, D.D.S., Linda Defibaugh, D.A., Tammy Coyner, D.A., Dana Vandervander, R.N., Charles Cuttino, D.D.S., and

testifying by telephone was Linda J. Huestis, R.N.

Dr. Lynne testified on his own behalf.

Closed Meeting:

Dr. Gokli moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Gregory P. Lynne, D.D.S. Additionally, Dr. Gokli moved that Board Staff, Sandra Reen, and Board Counsel, Howard Casway, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

Dr. Gokli moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. The motion was seconded and passed.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Mr. Casway read the Findings of Facts and Conclusions of Law and Sanctions imposed as adopted by the Board as follows:

1. Dr. Lynne, D.D.S. currently holds a restricted Virginia dental license.

2. Dr. Lynne violated §

Mr. Casway reported

moved to adopt the Findings of Fact, Conclusions of Law and sanctions imposed as read by Mr. Casway and issuing an Order stating such. The motion was seconded and passed.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 12:48 a.m. on Friday, June 06, 2008.

Virginia Board of Dentistry
Formal Hearing
June 5, 2008

Paul N. Zimmet, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date